

COUNCIL MINUTES  
TIGARD CITY COUNCIL MEETING  
JULY 26, 2005

- STUDY SESSION

Mayor Dirksen called the meeting to order at 6:30 p.m.

City Council Present: Mayor Dirksen and Councilors Harding, Sherwood, Wilson and Woodruff.

- > DISCUSSION OF THE CITY'S USE OF *LISTSERV*

Network Services Director Ehrenfeld and Network Technician Sears distributed and reviewed information about methods to e-mail notifications and information to Tigard citizens. A copy of the information distributed to the City Council is on file in the City Recorder's office. Two options hosted by outside companies were reviewed:

1. Listserv – A listserv, or list server, automatically sends messages to multiple e-mail addresses on a mailing list. When someone subscribes to a mailing list, the listserv will automatically add the address and distribute future e-mail messages to that address along with all the others on the list. When someone unsubscribes, the listserv removes the address.
2. RSS – "Really Simple Syndication" is a method of providing website content such as news stories or software updates in a standard format. RSS content can be accessed with an RSS-enabled Web browser or other programs designed for retrieving RSS feeds.

After discussion, City Council consensus was for staff to implement both Listserv and RSS. These services will be announced to the public when ready.

At Councilor Harding's suggestion, Network Services Director Ehrenfeld advised he would look into making City Hall contact information more visible on the City's website.

- > ADMINISTRATIVE ITEMS

- Review of Pilot Neighborhood Program Map

Assistant to the City Manager Newton reviewed with the City Council the proposed boundaries for the Neighborhood Program and the three areas selected for the pilot program:

1. Area 1 – An area served by the Beaverton School District.
2. Area 4 – An area located in "Metzger."
3. Area 8 – An established area that includes part of Summerfield and an adjacent neighborhood.

Assistant to the City Manager Newton advised she will be meeting with people over the next six weeks. The current Neighborhood Program map shows boundaries outlining 12 areas.

Assistant to the City Manager Newton said the name of this program has not been decided as she thought it would be good to solicit ideas for the name from program participants.

Mayor Dirksen said he would like to see a formal "kickoff" of this program; he suggested a picnic event.

- Procedural Review by City Attorney for the Quasi-Judicial Hearing

City Attorney Ramis reviewed the quasi-judicial hearing process for the appeal hearing on tonight's agenda (Agenda Item No. 4). Highlights of this review are:

- ↳ The City Council will be acting as judges with regard to the interpretation of the Tigard Municipal Code.
- ↳ The City Council must disclose ex parte contact, which includes site visits and if a City Council member has formed some opinions about the site because of the visit, this information should be shared.
- ↳ The City Council's decision must be based on criteria.
- ↳ The City Council may impose conditions.
- ↳ The applicant will testify first.
- ↳ The hearing is *de novo*, so new evidence can be introduced.
- ↳ If someone asks for a continuance, it is up to the City Council to decide whether to grant the continuance since the first evidentiary hearing was before the Hearings Officer.
- ↳ Application of the criteria should be consistent with reasons represented in a factual way.

- ↳ There was a question about Measure 37 issues. Applicability to this hearing will be discussed should the topic come up during the hearing.
- ↳ If the City Council determines its interpretation is different from that of the staff and Hearings Officer, then the procedure will be to make a tentative decision and direct the staff to return with findings at a future date for City Council consideration.
- ↳ It would be acceptable to ask the prevailing party to draft proposed findings.

- University of Oregon/League of Oregon Cities survey of advisory committees. Information was distributed to the City Council, which is on file in the City Recorder's office. Interim City Manager Prosser reported on this study on advisory committees to learn how committee approaches to process and decision making can improve performance. Researchers have asked to survey members of the following City of Tigard committees:

1. Citizens for Community Involvement
2. Downtown Task Force/Commuter Rail
3. Park and Recreation Advisory Board
4. Library Board
5. Transportation Financing Strategies Task Force

A report summarizing the findings from the study will be available through the League of Oregon Cities. If there are an adequate number of responses to insure confidentiality, a summary of findings for each city will be reported.

- Strategic Planning Retreat is tentatively scheduled for September 30, 2005. The retreat will start at noon at Councilor Sherwood's home. If someone wants to attend and ADA access is needed, Councilor Woodruff said his home could be the alternate site.
- Council Calendar:
  - August 9 Council Business Meeting – 6:30 p.m. – Town Hall
  - August 16 Council Workshop Meeting – 6:30 p.m. – Town Hall
  - August 23 Council Business Meeting – 6:30 p.m. – Town Hall
  - August 30 5<sup>th</sup> Tuesday Council Meeting – 7-9 p.m. – Tigard Water Auditorium
- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 7:11 p.m. to consider employment of a public officer and current/pending litigation under ORS 192.660(2)(a)(h).

Executive Session concluded at 7: 23 p.m.

1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the City Council & Local Contract Review Board meeting to order at 7:31 p.m.
- 1.2 City Council Present: Mayor Dirksen and Councilors Harding, Sherwood, Wilson and Woodruff.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None
- 1.5 Call to Council and Staff for Non-Agenda Items: None

2. CITIZEN COMMUNICATION

- Gretchen Buehner, 13249 SW 136<sup>th</sup> Place, Tigard OR 97223 testified that Washington County does not intend to do upgrade or repairs on roads. She suggested that since the City has annexed areas on Bull Mountain up to 133<sup>rd</sup> Avenue, the City should consider acquiring ownership of Bull Mountain Road from 99W to 133<sup>rd</sup> Avenue so it can be brought up to City standards. The Mayor advised that this was something to consider and said this should be brought up during the capital improvement process later this year. Interim City Manager Prosser suggested this might be a topic for discussion with County officials who are scheduled to attend the August 16, 2005, City Council meeting to review the issue papers prepared for Bull Mountain.
- John Frewing, 7110 SW Lola Lane, Tigard, OR 97223 advised he had two issues:
  1. A junkyard located at 74<sup>th</sup> and Cedarcrest – Mr. Frewing said that after years of neighborhood complaints, neighbors came to the City Council on November 30 and asked for enforcement action. Mr. Frewing referred to a decision by the Municipal Judge in April. The imposition of a fine was delayed 30 days and then delayed again for another 30 days. Mr. Frewing said he will not be able to attend the August Fifth Tuesday meeting and he wanted to make sure the City Council knows the situation persists. Mr. Frewing asked for a response to the most recent e-mails to the City asking why the City has not yet compiled the compliance history on this situation.

Mayor Dirksen said he has requested information from staff. The Mayor advised he understands the Court has found the

property owner in violation of the Code, which has resulted in fines and imposition of a compliance date. In response to a question from Mayor Dirksen, Interim City Manager Prosser advised that it was his understanding that the Judge has ordered the property owner to come into compliance and set a deadline. The property owner continues to show progress towards compliance, so the Judge has extended the deadline. Mayor Dirksen commented that he was surprised that the Judge granted another extension since this has already been tried; however, this is the Judge's prerogative.

Mr. Frewing said he wondered whether the Code has ever been enforced "in this area."

2. Mr. Frewing noted his second issue relates to annexation. He said that people from Bull Mountain have complained that the City has not looked after them in past years. He said the same thing exists in the Metzger area. He referred to the Washington County-City of Tigard Intergovernmental Agreement that calls for each entity to review developments in the areas of interest, Bull Mountain and Metzger. He reported there will be public hearings in the coming weeks on a development at 82<sup>nd</sup> and Cedarcrest. He asked the City Council to direct staff to review the development carefully to see that it serves the interests of Tigard. Mr. Frewing said Tigard has an interest because that area will be eventually annexed to Tigard and the "...right thing for Tigard to be doing now is to be keeping its eyes open and looking out, making sure the Washington County approvals there make that area decent when the time comes to annex Metzger..." He said he was specifically interested in making sure that the Washington County approval provides for the Ash Creek trail to go through this area.

- Follow-up to Previous Citizen Communication

Interim City Manager Prosser reported that on July 12, 2005, Bob Storer, John Frewing and Gretchen Buehner offered testimony regarding concerns with the criteria under consideration for the purchase of park land and/or greenway property by the City of Tigard. The Park and Recreation Advisory Board is reviewing this matter and its recommendation will be submitted to the City Council for consideration.

Youth Advisory Council President Rob Williams announced the items listed on the Consent Agenda items:

3. CONSENT AGENDA:

3.1 Approve Council Minutes for June 21 and 28, 2005

3.2 Adopt a Resolution Declaring the City's Intent to Participate in the City County Insurance Services Group Self-Insurance Program –

RESOLUTION NO. 04-48 – A RESOLUTION DECLARING THE CITY OF TIGARD'S INTENT TO PARTICIPATE IN THE CITY COUNTY INSURANCE SERVICES GROUP SELF-INSURANCE PROGRAM

3.3 Adopt a Resolution Extending the City's Workers' Compensation Coverage to City Volunteers –

RESOLUTION NO. 04-49 – A RESOLUTION EXTENDING THE CITY OF TIGARD'S WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY OF TIGARD

3.4 Approve Intergovernmental Agreement for Membership in the Office of Consolidated Emergency Management (OCEM) in Washington County

Motion by Councilor Sherwood, seconded by Councilor Woodruff, to approve the Consent Agenda.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Harding:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff	Yes

4. CONTINUATION FROM JULY 12, 2005, OF PUBLIC HEARING (QUASI-JUDICIAL) – APPEAL OF CONDITIONAL USE PERMIT FOR THE TIGARD FIRST BAPTIST CHURCH EXPANSION

**ITEM ON APPEAL:** On April 25<sup>th</sup>, 2005 the Tigard Hearing's Officer held a public hearing to consider an application for conditional use approval to construct a 22,500 square foot expansion of the existing church and associated parking in three phases. As part of Phase 2, the applicant

proposed to relocate the existing driveway on SW Gaarde Street. The Hearing Officer adopted findings approving the Conditional Use Permit and Sensitive Lands Reviews and denied the requested Adjustment to the access spacing standards. An appeal was filed on May 25, 2005 by the owner and applicant, on the basis that the Hearing's Officer misconstrued the applicable law. More specifically, the appellant's argue that the Hearing Officer's decision failed to balance the approval criteria.

**LOCATION:** 11075 SW Gaarde Street; WCTM 2S103DC, Tax Lot 1100.

**ZONE:** R-3.5: Low-Density Residential District.

**REVIEW CRITERIA BEING APPEALED:** Community Development Code Chapters 18.370 and 18.705.

a. Mayor noted this is a continuation of the Public Hearing, which was *opened at the July 12 meeting.*

b. Description of the matter before the City Council:

Associate Planner Tracy read the above description of the matter before the Council in this public hearing.

c. Legal Counsel Process Review:

City Attorney Ramis summarized the quasi-judicial land use proceedings' key points of process and procedure:

The staff report on this hearing has been available for viewing and downloading from the City's website and a paper copy of the staff report has been available in the Tigard Public Library for the last seven days. The Council's role in this hearing is to make a land use decision under existing laws. The Council cannot change the law for the land use application now under consideration.

Any person here tonight can offer testimony. Please wait until you are asked to speak by the Mayor and try to limit your remarks to the applicable approval standards for the application. Members of the City Council will be asked at the beginning of the hearing whether they have any conflicts of interest. And, if a Council member has an actual conflict the Council member cannot participate. Council members must declare any contacts about this case with a member of the public. Council members must also declare if they have independent knowledge of relevant facts, such as a visit to the site in question. The Council member who describes ex parte contacts or independent information may still participate in the decision. After the discussion of conflicts and ex parte contacts, any person may challenge the participation of the Council member or rebut the

statements made. The Council member in question may respond to such a challenge.

Tonight the staff will summarize the staff report and then the applicant and those in favor of the application will testify. After that, witnesses who oppose the application or have questions or concerns will testify. If there is opposition or if there are questions, the applicant can respond. The Council members may also ask the staff and witnesses questions throughout the hearing until the record closes.

Comments from the audience are not part of the record. After all testimony is taken including rebuttal, the applicant may make a closing statement. After the record is closed, the City Council will deliberate about what to do about the application. During the deliberations, the City Council may reopen the public portion of the hearing if necessary to receive additional evidence before making a decision. You may testify orally or in writing before the close of the public record to preserve your right to appeal the Council's decision to the Land Use Board of Appeals. Failure to raise an issue clearly enough so that the Council understands it and can address the issue, precludes an appeal on that issue. Failure to raise Constitutional or other issues related to the proposed Conditions of Approval, with sufficient specificity to allow a response precludes an action for damages in Circuit Court. Please do not repeat testimony offered by yourself or earlier witnesses. If you agree with a statement of an earlier witness, please just state that fact and add any additional points of your own. Also, please refrain from disruptive demonstrations in the case.

d. Declarations or Challenges

City Attorney asked:

- Do any Council members have a conflict of interest to report?  
None were reported.
- Do any Council members wish to report any ex parte contact or information gained outside the hearing, including any site visits?

Council members Harding and Sherwood indicated they frequently drive by the site.

Mayor Dirksen reported on July 12, he had a telephone conversation with a Church staff member who wanted to discuss the issue. When Mayor Dirksen alerted this person that the



Council would be acting in a quasi-judicial manner and anything discussed outside of this hearing would be seen as prejudicial, there was no further substantive discussion on this matter.

City Attorney Ramis said the statements by City Council indicate to the public that the Council is generally familiar with the site. If there are specific facts that a person wants to bring to the Council's attention, please feel free to do so in your testimony.

City Attorney Ramis asked if there were any challenges from the audience pertaining to the Council's jurisdiction to hear this matter, or is there a challenge on the participation of any member of the City Council. There were none.

Mayor Dirksen reminded the public that he officially opened the hearing on July 12; therefore he did not officially "open" it tonight, because it was already open.

e. Staff Report: Community Development Staff

Associate Planner Tracy advised essentially there was one element before the City Council as provided in the Development Code, which was access management. The access management strategy for arterial roads requires that driveways and streets be spaced no closer than 600 feet apart.

Associate Planner Tracy noted that at the last meeting the question was asked whether an agreement could be reached on this matter. He said one of the reasons why "we meet here tonight" is that in the Hearings Officer conditions of approval within the final order there is no provision for emergency-only access only for the disputed driveway location. Staff has concurred that this was an inadvertent omission by the Hearings Officer and staff agrees the condition should be modified as shown in Exhibit B of the draft resolution.

Associate Planner Tracy then addressed the request for opening up the driveway access for general public use. Staff has outlined a response to the issues that have been raised so far in a memorandum to the City Council dated July 22, 2005. The criteria for the adjustment request cannot be met in this situation since there is an alternate means of access to a lower classification street.

Staff has examined other options, including the applicant's offer to limit access during certain time periods. Unfortunately, there are no provisions in the Code to allow these types of mitigating trade-offs.

The staff's position is also consistent with the City's Transportation System Plan (TSP). The TSP was adopted in 2002 and acknowledges that such restrictions are often difficult to implement. Associate Planner Tracy quoted a section from the TSP:

"Access management is not easy to implement and requires long institutional memory of the impacts of short access spacing: increased collisions, reduced capacity, poor sight distance, and greater exposure to vehicle conflicts. The most common opposition to access control is that, 'There are driveways all over the place with closer spacing than mine...' These statements are commonly made without historical reference. Many of the preexisting driveways that do not meet access spacing requirements were put in when traffic volumes were substantially lower and no access spacing criteria were mandated. With higher and higher traffic volume in the future, the need for access control on all arterial roadways is critical. The outcome of not managing access properly is additional wider roadways, which have a much greater impact than access control."

Associate Planner Tracy said one of the arguments that might be presented to the Council was that there was access on Gaarde further up the street. He advised the Council that Engineering staff was available to respond to this, if necessary.

Associate Planner Tracy said the appellant argues that the Hearings Officer misconstrued the applicable law and did not balance the criteria for granting the adjustment; however, if the Council determines that the adjustment criteria have been inaccurately applied, then staff would seek direction as to how the criteria should be applied. Without such direction, the problem may be that this Type 2 process, which contains limited discretion, will contain largely discretionary criteria, which would more appropriately be a Type 3 process involving a public hearing. Essentially, what this would be leading to is a modification of the Code.

f. Public Testimony

- Applicant Representatives:

Dave Smith, Attorney at Law  
6950 SW Hampton, #232  
Tigard, OR 97223

Jim Wilson, Project Manager  
14357 SW 90<sup>th</sup> Avenue  
Tigard, OR 97224

Steve McCracken, Senior Pastor  
16412 SW Luke Lane  
Tigard, OR 97223

Attorney Smith advised this is a simple case of the Church requesting a new driveway access for a safer exit and for access by the Fire Department.

Attorney Smith reviewed his statement in support of the appeal. A copy of Attorney Smith's *Applicant's Memorandum in Support of Appeal* is on file in the City Recorder's office. Issues included:

- The Code language is ambiguous.
- Safety issues are present.
- Assertion that the City Council could interpret the Code's ambiguous language and approval could be granted because the requested driveway would result in safer access.
- The Hearing's Officer recognized that the 110<sup>th</sup> intersection is hazardous (sight distance and traffic speed on Gaarde Street).
- Staff's concerns can be addressed by allowing limited access on Gaarde Street; i.e., allowing access during specified days of the week and time of day to coincide when members would be attending services.
- The Director has the authority to move driveways on adjacent streets; i.e., access adjustment.

Attorney Smith said he would be happy to draft the findings if the City Council should choose to reverse the Hearings Officer's decision to grant the appeal of the Church.

Project Manager Wilson testified that the Church expanded its parking lot to relieve on-street parking on adjacent streets. Existing driveways are located at 110<sup>th</sup> Avenue and Gaarde street. The proposal is to add a second driveway on 110<sup>th</sup> and to relocate the Gaarde Street driveway 140 feet farther west from the 110<sup>th</sup> intersection from its present location. He said the Hearings Officer concluded the access point on 110<sup>th</sup> Avenue was all that was authorized by the City's code and that any driveway on Church property accessing Gaarde Street would be too close to the 110<sup>th</sup> intersection. Mr. Wilson said the Code prohibits driveways within 600 feet of the intersection without a Code adjustment. All of the traffic

from the Church that needs to go on Gaarde Street would, therefore, have to go through that intersection.

Mr. Wilson advised that the Church wants to work cooperatively with City and its neighbors and make the project an asset to the community. He said that they sincerely believe that the driveway on Gaarde is the best and only way to make their project such an asset. Since the Fire Department insists on the Gaarde Street access, and City staff supports this emergency access, he asked why the Church could not use the driveway to attend worship services on Saturday evenings and Sundays.

Mr. Wilson said that the Church's traffic engineer says the Gaarde Street driveway is safer than having all of the Sunday traffic coming through the 110<sup>th</sup> intersection; the Hearings Officer agreed. The 110<sup>th</sup> Avenue intersection has poor visibility. He said staff suggested the solution to this problem is to improve that intersection. Mr. Wilson said the Church would do that, if it could. The Church's traffic engineer and the Hearings Officer agreed that trees and shrubs in front of homes located on 110<sup>th</sup> Avenue are what restrict visibility. Those trees and shrubs are on private property, not City right of way and the Church understands the City would not condemn that property for that purpose. Besides, removal of those trees and shrubs would destroy the buffer of Gaarde traffic that this vegetation provides to these homes.

The safest, easiest, and most reasonable solution to the problem is to allow the Church to use the fire access on Gaarde for Saturday evening and Sunday worship services. He said they would keep the access gated to Fire Department standards during the week and only open it for the above-mentioned worship times.

Senior Pastor McCracken submitted a written copy of his testimony, which is on file in the City Recorder's office. Pastor McCracken has served at the Tigard First Baptist Church for the last 12 years. He said the decision the City Council makes tonight has great implications for the Church and its mandate to serve the community. He noted that the Church has been at this Tigard location for 50 years. The Church has been, and continues to be passionate about this city. For nearly five decades, and before Tigard became a City, the Church has sought to be a benefit to the City.

Pastor McCracken said their church and the other churches in the community exist to give to the City and its people. They have always helped the homeless and the hungry and the hurting. They respond to need whenever and wherever they see it in the community. The Church gives financially to ease the strain and struggle of citizens

through food, rent, and utility assistance. Most of the time, recipients of such humanitarian aid are not from their congregation, but from those who walk in from the neighborhoods and community and ask for help. He said the Church is trying to be a good neighbor by relieving the impacts to 110<sup>th</sup> Street. He referred to past favorable responses from the Church to the City of Tigard, including granting easements.

Pastor McCracken advised another way they give to the community is that they employ four full-time pastors for the youth, children and young adults in the community. They patronize businesses in Tigard. Nearly 500 regular church attendees shop at stores, eat at restaurants and conduct other business in Tigard. He asked for the City Council to see the value that the Church adds to the community. They feel the closure of the Gaarde Street entrance would greatly obstruct their positive presence in the City. He said the Church is growing, just as is the City of Tigard. Part of their growth plan is aimed at the very issue being discussed tonight: cars, traffic and congestion. He said their first priority is to reduce any adverse impact on their neighbors who live on or around 110<sup>th</sup> Street, which borders their Church. Their plan is simple – build more parking to get the cars off the street and into a lot.

Pastor McCracken said it is their desire to ease the street traffic impact on their neighbors on 110<sup>th</sup>, however, is sure to fail if the Gaarde Street access is eliminated. Therefore, it is their strong belief that their expansion project, which includes retaining a relocated Gaarde Street driveway further from the 110<sup>th</sup>/Gaarde intersection, is by all means reasonable and appropriate.

Pastor McCracken said that for many years, the people of Tigard First Baptist Church have responded favorably to the City and the Council on numerous requests. They are asking that the City demonstrate the same kind of willingness to assist them by granting the variance as they continue to serve the people of the City without undue or unreasonable restraints.

Senior Pastor McCracken submitted petitions with more than 300 signatures supporting the Church's request for Gaarde Street access. The petitions are on file in the City Recorder's office.

- Proponents

- Bibianne Scheckla, 10890 SW Fairhaven Way, Tigard, OR 97223, testified she was not a member of the Tigard First Baptist Church. She asked that the City Council not close driveway

access for the Church on Gaarde Street, which would only place more traffic on SW 110<sup>th</sup>, which is a neighborhood road. She said the City widened Gaarde Avenue so it would hold more traffic – and now the City wants the traffic on 110<sup>th</sup>. This is the exact opposite of nearly closing North Dakota affecting 121<sup>st</sup> Street. She referred to a driveway for St. Anthony's cemetery, which contradicts the purpose and the dispute of this driveway on Gaarde Street as proposed by the Tigard Baptist Church. She asked that the City Council allow the driveway on Gaarde Street as well as the driveway on 110<sup>th</sup> Avenue. Both driveways are needed, mostly for Saturday evening and Sunday traffic. She noted a reference was made to the fact that the speed limit is 35 mph on Gaarde; however, at the Church's location, the traffic is still traveling at 20 mph, because of the school zone.

- Kit Whiteman, 9530 SW Edgewood, Tigard, OR 97223, testified that she and her husband have lived in Tigard for 44 years. Their first home in Tigard was on Gaarde Street. They lived next door to Mrs. Tigard and across the street from the Gaardes. She said they began worshiping at Tigard First Baptist Church in 1961 and the Church has made every attempt to be good citizens and neighbors. When the Canterbury apartment complex was first built, the City discovered they had built a sewer system that was totally inadequate to serve the needs of that large of a complex. This necessitated a sewer line and during that process, the sewer had to go through the Church property. At that time, they had a very small congregation and the financial impact was significant; however, they decided that in order to be a citizen of the community, they needed to comply with what the City asked them. The use of the property has been limited because of the sewer location. The property's use has been further limited because of the bike path that they agreed to allow on their property.

Ms. Whiteman said that with the many contributions made by the Church to make Tigard a better place for people to call home, she said she feels that now it is the City's turn to listen to what their needs are. They have tried to always comply and do what they've been asked to do. The access drive has been in existence for 44 years or more and she does not want the Church to lose it. The proposed Gaarde Street access creates a better traffic situation because it greatly improves the driver's visibility. The 110<sup>th</sup> intersection is less safe. The inability to see traffic was created when the City decided to align Gaarde Street with McDonald Street. She asked the City Council to allow the Church to keep its access on Gaarde Street. There is a need for rules;

however, this is a situation where increased safety along with logic and common sense should prevail.

- Ray Griffin, 14175 SW 93<sup>rd</sup> Avenue, Tigard, OR 97224, testified that during construction of SW Gaarde Street, Mike Mills of the City of Tigard Capital Improvement Team told the Church Property Commission that they would receive their new driveway and that it made good sense to pour the driveway ramp before the sidewalk was built so the sidewalk would not have to be torn out. Vannie Nguyen, Mike Mill's supervisor, also told Mr. Griffin that the Church would be allowed a new driveway, but that they might have to give up the existing driveway. During the construction of Gaarde Street, the Church allowed the City to store dirt on their property. The Church did this in good faith that the City was working with them on their needed driveway. The Church also worked with the Capital Improvement Team when an underground electrical line was placed on the 110<sup>th</sup> sidewalk property without a utility or construction easement and, again, they felt they were doing the right thing since the City was working with them on their driveway. When Gaarde was finished, the result was that the existing driveway on Gaarde is now too steep and Tualatin Fire and Rescue District says the current driveway is not acceptable. The Church decided it would make due until they relocated the driveway.

Mr. Griffin said it does not seem fair or right for one arm of the City to make promises to a landowner causing the landowner to act in good faith to accommodate the City's needs and then for another arm of the City to break those promises and take away an important feature that the landowner has had for years.

Mr. Griffin said the Church's request is logical, reasonable, and increases safety over present conditions. After so much good faith effort on the Church's part, he said he hoped the City Council would see the potential injustice in this situation and find in favor for the requested variance.

Councilor Woodruff asked if the agreement cited by Mr. Griffin earlier was a verbal understanding. Mr. Griffin said it was a verbal understanding. He worked with staff in the field and the Church moved a retaining wall to accommodate the driveway to be poured. It was a last-minute decision when they were told the driveway ramp would not be poured after they had already made the adjustments in the field. Mr. Griffin confirmed there was nothing in writing.

- Gary and Jeanne Henry, 1411 SW 120<sup>th</sup> Place Tigard, OR 97224. Mr. Henry advised they agreed with previous statements and had nothing further to add.
- Larry Vonada, 16352 SW Cromwell Court, Tigard, OR 97223, said he agreed with what has been stated regarding safety. He said he emphasized that the spirit within the Church is to be a good neighbor and he would like to continue to be a good neighbor to the people on SW 110<sup>th</sup>. Part of the purpose of the Church's project is to get cars off the street and into a parking lot so it does not create further and additional traffic problems.
- Frank Charbonneau, Charbonneau Engineering, 9370 SW Greenburg Road, Suite 411, Portland, OR 97223, said he would be available for questions. He said he is the traffic engineer for the project.
- Bruce Anderson, 11205 SW Gaarde Street, Tigard, OR 97224, said he is an adjacent property owner and has lived at this location for about 35 years. He asked for the City Council's support by allowing the requested access. Mr. Anderson said it seems unreasonable to restrict or take the driveway away. He said the proposed relocation of the driveway would be much safer because of better sight distance. He added that the Church has lived up to being a good neighbor and helping the community. Mr. Anderson said he is not a member of the Church, but has lived next door to them for a lot of years and they always been good and cooperative to him and, when there have been problems, they have been resolved.

- Opponents: None

- Rebuttal: None

g. Staff Recommendation:

Associate Planner Tracy reviewed a couple of points raised during testimony. He said it was important to note that Tigard First Baptist serves as an anchor of the community and the City appreciates the Church's efforts. Associate Planner Tracy noted the City has approved the conditional use expansion and now this is more a matter of how the City manages the public streets for all members of the public. Associate Planner Tracy referred to the increased volumes on Gaarde Street. Associate Planner Tracy noted Mr. Wilson raised an issue about sight distance at SW 110<sup>th</sup> and Gaarde. He said it was important to note that it is a requirement of the



approval that the sight distance be improved to the extent practicable. There are other situations where sight distance problems existed and the developers in those cases had to lower the road, obtain easements to trim hedges, etc. Associate Planner Tracy said he understands there is an existing sight distance problem, but there are two requirements being placed on this decision:

1. Regarding access, which is being discussed at this hearing.
2. Sight distance – it is a requirement that the Church move toward obtaining better sight distance. It may not be possible to get fully complying sight distance, but he noted it was within what was allowable.

Staff is recommending the Council adopt the draft ordinance that amends Condition No. 30, to reflect the allowance for emergency access as shown in Exhibit B and uphold the remainder of the Hearings Officer decision.

h. Council Discussion

Councilor Sherwood asked what triggers limiting access when it is already in existence? Associate Planner Tracy said one of the items reviewed was whether the non conforming access would “hold some ground here.” When are you doing development, the issue of access is raised and you have to satisfy the access standards. The non-conforming chapter requires that if you’re relocating or altering your access – or your non-conforming structure as in this case – it has to be rebuilt in a manner that conforms to the Code. Therefore, what has triggered the restriction on the access is that the Church has proposed a development that requires Conditional Use approval.

Councilor Sherwood asked if the construction on Gaarde did anything to damage their current access. Associate Planner Tracy said he believed the applicant would confirm that it did. When the Capital Improvements Team constructs a street improvement project, it is not considered development and it does not go through a development review process. Reconstruction of anyone’s driveway is not part of the land use review; therefore, the same standards do not apply.

In response to a question from Councilor Sherwood, Associate Planner Tracy advised the current driveway on Gaarde Street is too steep for emergency vehicle access. It is too steep because of the widening project on Gaarde. The Church is proposing to relocate that driveway about 140 feet further west. Councilor Sherwood asked that if the City destroyed their access so that is not useable, are we not beholden to allow it to be moved? Associate Planner Tracy said,

"We are still looking at how the access standard is being met. So whether it was in its current location or in a proposed location, the adjustment criteria, the spacing criteria would prevent that access from being on Gaarde."

Councilor Wilson noted that Mr. Smith raised an issue about Fire Department access and the fact that they are allowed to request access on the basis of safety and yet, he did not think anyone argues that the new proposal is safer than the access off of 110<sup>th</sup> Avenue. He asked for clarification of the Code that allows Tualatin Valley Fire and Rescue to demand an access when it is contrary to our spacing requirements. Associate Planner Tracy said he would need to take the time to research the Code; however, essentially the justification is that when there is an emergency crisis on a particular parcel, there is added safety measures (lights, sirens). It would not be a normal situation where a driver would come up on a driveway not see an emergency vehicle entering or leaving the site. There is not that kind of notification for drivers in a general access situation. Councilor Wilson said he served on the Planning Commission for eight years and said it is the City's procedure to follow rules with the Code. He said it always puzzled him that the City would receive comments from the Fire Department, TriMet or other agencies and sometimes these comments would have the force of law. At times this seemed arbitrary or subjective. He asked, in general terms, is there always an objective standard that is written? Associate Planner Tracy said the Fire Marshal must follow the International Fire Code. The Fire Code provides that access be provided within 150-feet of all portions of the building. When they do their site plan review, there is a Code and process that they follow when submitting comments. During the City's process of reviewing the development, staff is also in contact with the Fire Department to work out issues. What ends up before the City Council is a blend of the City's Code and other codes such as the Building Code and Fire Code. There is a standard that is applied; but it's not necessarily in the City's Code.

Councilor Woodruff asked whether there was precedence for looking at applications distinguishing between a new development vs. the type of development under consideration tonight. He note the change being requested will put the Church closer in compliance with the current Code, although not fully up to Code. Is there not some way that the Code allows for a different level of reviewing how things must be met. Associate Planner Tracy said this was a similar frustration of staff as the staff reviewed the Code to determine if the non conforming section of the Code would allow this request to be approved since the proposal would bring the situation on this property closer to conformance. Associate Planner Tracy suggested this

might be a section of the Code that should be "looked at." Councilor Woodruff agreed this should be reviewed.

Councilor Harding asked whether the City had a traffic engineer review this situation. Associate Planner Tracy advised that, yes, Frank Charbonneau was the traffic engineer.

Councilor Harding said the Church's entrance is "pretty well destroyed and it's quite a steep one now, compared to what it used to be. Redesigning that street impacted them greatly. I am also under the understanding that part of the reason Gaarde was widened to such a degree was because the bond went down a few years back and in order to have MSTIP funding, we had to make it with bike lanes and the turn lanes, etc., which greatly impacted their driveway and their parking ability....My guess is they'd go to 600 feet, but they can't because they would be in the creek or the wetlands...And, I don't think it's a matter of the Church not wanting to comply. I think that it's impossible..." Associate Planner Tracy responded that a conforming access on Gaarde would "put them off of the property." But, Associate Planner Tracy said, if you look at the adjustment criteria, it is possible for them to comply and that is what staff has recommended. The unfortunate thing is that the method of compliance means that all the driveway access should be shifted to SW 110<sup>th</sup> Avenue. Councilor Harding noted that SW 110<sup>th</sup> Street is a residential street. She said the Code does not seem to make a lot a sense for this location based on what she has experienced at this location. Associate Planner Tracy suggested that one way to look at this, in terms of the access management strategy, is to limit turning movements. Every time a driveway is added, there is another point for conflict; however, if you map out both directions of travel and the cars coming in and out along with bikes and pedestrians, there are up to eight points of conflict with each driveway. The general stance is to reduce the total number of driveways on arterial streets. Pacific Highway is a great example where there is no access management strategy and this has caused problems. Councilor Harding noted some access management has been proposed for the driveway through the installation of a gate so that the driveway would not be used Monday through Friday. She asked if it might be possible to monitor this.

Development Review Engineer McMillan said the proposed gate during the weekday time periods would be limiting access on days when there is no traffic to limit. When the free access is wanted, on Saturday and Sunday, to Gaarde Street (which is an arterial) vs. the weekday traffic, which is lower. Traffic would be held back at the

wrong time. At that point, the emergency access would not need to be gated.

Mayor Dirksen noted that a concern was expressed in the staff report that if that opening were made, people would be able to use it as a bypass around the intersection between Gaarde and SW 110<sup>th</sup> Avenue. If the City restricted the use of that to a limited amount of time then that would limit or eliminate that ability. This would be an argument for keeping this as a restricted access.

Mayor Dirksen noted that staff and the applicant have brought up the issue of sight distance at the intersection of SW 110<sup>th</sup>. He asked what was the sight distance like if they were to use the entrance on Gaarde Street at the new, proposed location – how does that compare? Traffic Engineer Charbonneau said that at the proposed access point further to the west on the Church property, the access would conform to meet the sight-distance standards. Mayor Dirksen asked Mr. Charbonneau if the sight distance would be better at the proposed Gaarde Street than the sight distance at SW 110<sup>th</sup> Avenue intersection. Mr. Charbonneau said it was definitely better. Development Review Engineer McMillan confirmed that one can see to the west for a long distance, but the eastern sight distance is in question. She noted the SW 110<sup>th</sup> intersection would still be used so the applicants have to either meet the requirements or “best meet” the requirements.

Mayor Dirksen said in looking at Tigard Development Code Chapter 18.370, there are several instances where one of the standards/requirements is that it be a safe intersection. He asked that while the proposed Gaarde Street driveway does not meet the 600-foot rule, is there anything about the access that would be inherently unsafe, other than a potential interference with traffic at the intersection with 110<sup>th</sup>? Other than the conflicting turning movements, Development Review Engineer McMillan said, “probably not.” Mayor Dirksen asked if the access to Gaarde Street were limited to a right-turn exit only, would that be helpful? Development Review Engineer McMillan said this was reviewed; however, they could not make it meet the adjustment and variance criteria. Again, she said it's the left-turn movement that is the main concern. She said one can see the traffic coming from the west, so the left turn can be made safely and it is really the right turn that would be less safe because of the limited sight distance.

Councilor Woodruff acknowledged staff's concerns and application of the rules. He said it is the staff's responsibility to apply the rules;

however, the Council's position is to change the rules, if they need to be changed and to interpret the rules if necessary.

Councilor Wilson noted that this is a Conditional Use process and asked whether construction was imminent on this driveway? Project Engineer Wilson said if permission was given, the Church was prepared to build the new driveway immediately. He said they are in the process of fund raising toward this project. Phase 1 would be the lower parking lot level and would include the driveway for which they are seeking relocation. Associate Planner Tracy added the construction of the parking lot is included in Phase 1, the access opening to Gaarde does not occur until Phase 2. However, Associate Planner Tracy said there was no set time limit between those phases. Project Engineer Wilson said the Church was assuming that as soon as they opened the new, relocated driveway, they would be asked to close the existing driveway.

Councilor Sherwood asked if the Council was to make exceptions to existing access on streets within the City within the Code, what would the timeline be; i.e. six months or a year? Associate Planner Tracy there would be some time involved to draft language and analyzing what the impact would be citywide. He estimated at least six months for a Code amendment.

City Attorney Ramis advised the Council that it is possible for it to adopt the interpretation offered by the applicant. He noted there were two competing interpretations:

1. Staff's interpretation, which gives the Council and the Hearings Officer essentially no discretion, or
2. Applicant's proposed interpretation, which allows the Council discretion.

City Attorney Ramis said that while the staff's interpretation is the most obvious, he would not say the applicant's interpretation is impossible – it's also plausible. One outcome would be to interpret the Code as the applicant suggests and then to come back in a legislative process and take a harder look at this language to determine what the Council wants to do in the future, if the Council thinks the language needs some adjustment. For example, he suggested the Council might want to consider treating redevelopment differently than new development and change the threshold that triggers the rules.

In response to a question from Councilor Sherwood, Attorney Smith referred to his *Applicant's Memorandum in Support of Appeal*. Attorney Smith read the following language (Page 15):

"The Church proposes to the Council that the access and egress adjustment be approved subject to the condition that the driveway be gated and locked as specified in the Fire District letter."

Attorney Smith said that the above language would be the actual condition that the City Council would adopt. He then read language on Page 14:

"The City Council may interpret the ambiguous access and egress adjustment provisions of '20.C.5' to conclude that access on Gaarde Street may be allowed even if alternative access on 110<sup>th</sup> Avenue is available, when that alternative access will not result in safe access."

- i. Mayor Dirksen closed the hearing.
- j. Council Consideration:

Councilor Wilson said he is persuaded that the proposed entrance would be better than the 110<sup>th</sup> entrance; however, he said he was also persuaded that the Code appears to be black and white on the issue. He said he would prefer to address this matter legislatively at some point in the future. He noted he had asked about the timeline on the construction of the driveway so that the issue could be addressed in a way that if following the letter of the Code makes it more unsafe, that the Council would have discretion. Councilor Wilson said he did "not see it in the letter of the Code as it now exists." He advised he would "go with staff on this one."

Mayor Dirksen asked the City Attorney if it would be permissible for the applicant to reapply for this access at some point in the future after the City Council has made a legislative change. Or, he asked, if once the application is in, is it locked in to comply with the Code as it now exists? City Attorney Ramis said there is no time limit for reapplication and the applicant could reapply. Associate Planner Tracy noted that another option was that after the approval has been granted, the applicant could return for a modification of the Conditional Use.

Councilor Wilson noted that he was going to be a proponent in the future for limiting access on Pacific Highway and he did not want to

set a precedent granting the request simply because there is no one opposed. He said there are many other streets in Tigard where it is very important to limit access for traffic flow. Councilor Wilson said that the strict application of the Code in this instance might create a condition that is more unsafe and more onerous to the neighbors along 110<sup>th</sup>; however, in this case there is a Church in a residential area as a Conditional Use. Large churches are really best located along arterials, where they don't impact neighborhoods. In this case, he said he thought it would be a bad precedent to grant a variance that the City's Code does not appear to allow.

Councilor Sherwood asked if the Church applies for a variance after a Code amendment, will the Church have to pay all the application fees again? Associate Planner Tracy said that if the Code change would permit the driveway, the Church would need to apply for a Public Facility Improvement Permit, which would be about \$150. In addition, the Church would also have to apply for a modification of the Conditional Use permit.

Councilor Sherwood noted she had difficulty with this type of situation in that in order to make improvements for the City, a property owner has been adversely affected. She said she feels there needs to be accommodation. However, at the same time, she agreed with Councilor Wilson in that the City has been working for almost three years on access on major roads. She said she would much rather place a Code change on the fast track. She said she would go along with the provisions of the Code and hoped that the applicants would work with the City on a Code change.

Councilor Woodruff said that he thought that whenever there is any ambiguity in the Code, it is important to come down on the side of common sense. He said in this case it seems that there is a special circumstance. He also noted he was concerned about precedence and if someone requested a similar consideration in the future, the Council would need to look at how close it resembled this situation. Councilor Woodruff said he did think this was a special case. He said there is enough ambiguity, including safety issues, so that he was persuaded that the City should allow this variance and allow the Church to continue to have access to Gaarde, which the Church has had for several decades.

Councilor Harding said she concurred with Councilor Woodruff. She said she did not think a Code change would be necessary because she would not want someone to automatically be "grandfathered" and this might lead to an excuse to ask for a

variance. She said she was not one who would want to give variances very often. Councilor Harding said she has issues when the City does not follow the Code. She said that she has seen Gaarde Street evolve over the years. She said the City destroyed the Church's entrance when the street was widened. Councilor Harding said the street was wider than anybody ever thought it would be. She said the reason why this street was so wide was because it became an MSTIP project after the bond measure in Tigard went down. She said she thought it would be appropriate to grant the variance with the caveat that the City monitors that entrance and, if it should become a problem, then the driveway would have to be closed all of the time.

Councilor Woodruff noted he appreciated the extensive amount of work done by the City staff and the Church. He noted there is a great deal of work that goes into development review and pointed out that there are more than 300 pages of material that relates to this issue: the Codes, the analyses and letters. He said this is taken very seriously and he said he appreciates the civility on the part of the proponents. Although some might think this is a small issue, it is taken seriously when it comes to application of the City Code.

Mayor Dirksen said that in listening to the arguments from both sides, his opinion has swayed back and forth. He noted that City Council has looked for a way to allow this request. He said he searched the variance codes. The only requirement in the Code that appears to be "in the way" for granting the variance is that there is a way to access the property from another street. However, he said when looking at the plot plan, he thought it was arguable that because the two access driveways on 110<sup>th</sup> Avenue are so close together, they really act as one driveway divided into two different lanes.

Mayor Dirksen also noted the request was for a continuing use by the same body. He said he is sympathetic to the idea of allowing the Church to continue to use something they have used previously. He noted he shared Councilor Wilson's concerns with setting precedence as it relates to Pacific Highway. Mayor Dirksen said he was compelled to agree with Councilor Woodruff and Councilor Harding that in this case a special circumstance does exist. He also noted the only other opportunity to use another access in conjunction with adjacent property would be to join with Mr. Anderson's property. He noted that this would also require an impact on a natural drainage way between the two properties. He cited other issues in favor of a variance: 1. This is a special



circumstance for lot size or shape, and 2. There is an existing physical or natural system in a dramatic land form. For the above reasons, Mayor Dirksen said he believes the applicant substantially meets the criteria.

Mayor Dirksen suggested language for a motion: That the Council amend the recommended amendment, which says, "The existing driveway at Gaarde will be removed prior to final inspection on Phase 1 and restricted emergency access from SW Gaarde Street to the lower parking lot area may be constructed as required by Tualatin Valley Fire and Rescue, etc. ; and, he suggested that the change to "a restricted access from SW Gaarde Street to the lower parking lot be constructed" and with further language that it be restricted in use to the time as suggested by the applicant, which he believed was from 5:00 Saturday evening to 6:00 Sunday evening. He added that this would be with the understanding, as Councilor Harding suggested, that as the City observes the workings of this, and that this use could be retracted later; the City would retain that right based on potential safety issues as a result.

Councilor Harding, seconded the motion, as a tentative drafting of the wording with staff and City Attorney review so that it is done appropriately.

In response to a question from Councilor Wilson, City Attorney Ramis confirmed that rather than making a tentative decision tonight and voting that the staff bring a motion back to the City Council with the supporting findings.

Council discussed process. Councilor Woodruff noted that with the people who are attending the hearing, he would want to be able to let them know that the City Council decision would not change. What would be coming back to the City Council is the formality of the wording. City Attorney Ramis noted that a vote by City Council tonight would be a tentative decision subject to its final review and approval of the language "that we bring you."

Councilor Harding noted she would be on vacation on August 9. It appeared from the earlier Council discussion, it would be a "two-two" vote, unless someone changed their vote. Councilor Harding said she would be available by telephone. Councilor Wilson and Councilor Sherwood both indicated they would change their mind to support going forward with this.

Interim City Manager Prosser suggested the wording of the motion would be to tentatively approve the applicant's appeal of the

Hearings Officer decision and to direct staff to work with the applicant to return findings for final approval on August 9. Mayor Dirksen advised he would make the motion as suggested above by Interim City Manager Prosser. Councilor Harding seconded the motion.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Harding:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff	Yes

Council meeting recessed: 9:14 p.m.

Council meeting reconvened: 9:24 p.m.

5. PUBLIC HEARING – CONSIDER A RESOLUTION FINALIZING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 34 (SW 117<sup>TH</sup> AVENUE)

- a. Mayor Dirksen opened the public hearing.
- b. City Engineer Duenas presented the staff report. Highlights of the information reviewed with Council are contained in a PowerPoint presentation, which is on file in the City Recorder's office.
- c. Public Testimony: None
- d. Staff Recommendation: City Engineer Duenas staff recommended that the City Council approve the proposed resolution to finalize Sewer Reimbursement District No. 34 as modified by the City Engineer's report.
- e. City Engineer Duenas reported that no comments were received from residents within the area. All resident within this area were notified of this hearing.
- f. Mayor Dirksen closed the public hearing.
- g. Council Consideration:  
Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt Resolution No. 05-50.

RESOLUTION 05-50 – A RESOLUTION FINALIZING SANITARY  
SEWER REIMBURSEMENT DISTRICT NO. 34 (SW 117<sup>TH</sup>  
AVENUE) AND AMENDING THE PRELIMINARY CITY  
ENGINEER'S REPORT CONTAINED IN RESOLUTION NO. 05-17

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Harding:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff	Yes

6. SECOND QUARTER COUNCIL GOAL UPDATE

- a. Interim City Manager Prosser presented the staff report updating the progress on City Council goals. A written summary of the goal status is on file in the City Council meeting packet.

Interim City Manager Prosser noted the following:

Goal 1 – Revitalize the Downtown, with the subtask of completing and implementing the Downtown Plan: The Downtown Task Force has continued to engage the community in discussions on this plan. The original plan was to submit the Downtown Plan for City Council approval in July; however, this has been delayed until September to allow for additional input and work on the Plan. The full implementation of the plan will occur over the next 10-20 years.

The second subtask for Goal 1 was for urban renewal implementation and developing a public outreach plan: The City hired two consultants. One consultant will assist with putting together the urban renewal plan; this is well underway. It is expected that the urban renewal plan will be presented to the City Council before September. A second consultant was hired to assist with the public outreach effort. The consultant will help produce materials explaining the urban renewal plan and the goals of the City Council to update the downtown. Also, part of this process is to conduct a survey of citizens to get their input and opinions on what is happening in the downtown area. This survey is being conducted now and results should be available shortly.

Interim City Manager Prosser noted that also under Goal 1, the 2005/06 Capital Improvement Program (CIP) includes approximately \$1.8 million for projects focused on the downtown. The CIP was

approved by City Council on July 1 and staff is now working on implementing the plan.

Goal 2 – Improve Highway 99W: Interim City Manager Prosser noted that a subtask was to identify specific projects to alleviate congestion on 99W. He reported that the McDonald Street/Highway 99 Intersection is being worked on and it should be completed in August.

Another project under Goal 2 includes the Hall Boulevard and 99W intersection. Interim City Manager Prosser noted this is a long-term project. He said the City has met with the County to review the preliminary plans along with some cost estimates. The estimates were higher than expected, but the City Council has indicated to the County that this is still a high priority and encouraged the County to proceed with this project even with the additional cost. The City will be working with the County to find the additional funding to make improvements to that intersection.

Interim City Manager Prosser noted that for the Greenburg Road/Highway 99W study, the consultant will be selected in early August, with the study beginning in late August.

For the Highway 99W Corridor Improvement Study, Interim City Manager Prosser said the City has submitted a grant application to the Oregon Department of Transportation for the development of a Highway Corridor Improvement and Management Plan. No word has yet been received on grant award; however, preliminary indications have been favorable.

Interim City Manager Prosser said that the Walnut Street Corridor Study will be held in abeyance until the Downtown Plan has been finalized to determine whether or not there will be a need to go ahead with this project.

Goal 3 – Address Growth: Interim City Manager Prosser noted the subtask was to revise the Comprehensive Plan for Tigard and, if funded, for Bull Mountain. Council added a staff position to the City's budget to begin work on the Comprehensive Plan Update. Staff is putting together the recruitment materials for this position. In addition, the City has had some preliminary discussions with the County about including the Bull Mountain area. The County has indicated that they are open to this. The County has developed issue papers for the Bull Mountain area and these papers state the County would like Tigard to do the study for this area. The City needs to find out who will pay for the study in the area. Interim City Manager Prosser said that when the County staff is present at the August 16

City Council meeting, this is something that should be discussed with the County staff.

A subsection of Goal 3 is Metro – seek changes – the changes sought would be to free Tigard's Comprehensive Plan process to respond to citizens' concerns. Also the Council goal included initiating a discussion with Metro regarding flexibility with density requirements. Council adopted a resolution on May 10, which was transmitted to Metro. In addition, some City Council members participated in a region-wide symposium on Metro and its land use program. No follow has been received from Metro. There will be another symposium, possibly in September. Mayor Dirksen noted that the time might come when it would be appropriate for the City to send Metro a follow-up letter advising that the City would like to enter into a dialogue with them to discuss the issues that were outlined in the above-mentioned resolution. Councilor Wilson said it might also be good to refine the City's concerns. He said it might take some staff time to assess where the City stands with regard to densities: Is the City ahead or behind in Metro's projections? Councilor Wilson also noted it should be stated what flexibility the City might require with regard to densities. Interim City Manager Prosser said staff would schedule this for an upcoming City Council workshop, perhaps in September.

Another subsection of Goal 3 is to Identify and Acquire Parks and Open Space. Again, by approval of the Budget, Interim City Manager Prosser said there is money available for parks acquisition and development – approximately \$2.1 million. Staff and the Parks and Recreation Advisory Board are working on a recommended set of guidelines to help evaluate potential land acquisitions. The Public Works Department has received a number of suggestions for sites. In addition, recently the Public Works Director and Interim Finance Director began talks about looking at some financing options to help make the money that is available go even further.

A Review of Growth and Expenditures is a subsection of Goal 3. Interim City Manager Prosser noted this year's budget has been approved. The City Council has directed staff to prepare a resolution to establish a Financial Strategy Task Force and that Task Force has been formed. Its first meeting is scheduled for August 24. The Task Force is scheduled to report to the City Council no later than December 31, 2005.

The final subsection under Goal 3 is Graphic Identity (branding). Interim City Manager Prosser said a consultant has been selected to assist the City. The consultant has met with the City Council three

times and City Council has given input on designs. Additional workshop meetings between the Council and Consultant are scheduled.

b. Council Discussion

Councilor Woodruff noted it was good to receive the update. He noted that "Downtown" and "Growth" appeared to be more easily addressed than Highway 99W. He asked City Engineer Duenas about the Corridor Improvement Study that the City hoped to do with ODOT. He asked if there would be any impact with Bruce Warner leaving ODOT. Councilor Woodruff noted this was a project that would take a comprehensive look at the whole 99W issue. City Engineer Duenas said he did not think that a change in the top management for ODOT would make a difference. The ODOT staff is "driving" this project. City Engineer Duenas said staff expected the grant awards to be announced soon. City Engineer Duenas said that enough dollars were allocated in the CIP and this would go forward regardless of whether the grant is awarded for this project.

Mayor Dirksen noted while the goals were not specific, there are a lot of specific tasks identified within the goals. He said staff has been given a lot to do this year and they have "hit the ground running and have not stopped." Mayor Dirksen said the goals do compliment one another. He noted the goal to improve 99W and the goal to regulate growth contains a task to revisit the Comprehensive Plan. One of the areas for review in the Comprehensive Plan is the zoning around 99W and how this might alleviate congestion. He noted this is more of a long-term goal.

Councilor Wilson said he was very pleased with the progress that has been made. He said he thought fewer goals were easier to manage; however, the goals were very ambitious and the City was dealing with some fairly intractable problems and given the difficulty, the progress that has been made has been significant.

Councilor Sherwood noted she appreciated the hard work of City staff.

Councilor Harding thanked Interim City Manager Prosser noting she has heard from several Department Heads that he reminds them often of the Council's goals.

7. DISCUSSION OF THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE (TFSTF) REPORT

- a. TFSTF Chair Buehner addressed the City Council. In addition, Task Force members Ralph Hughes and Bev Froude were present. Ms. Buehner gave a brief history about the reactivation of the TFSTF by the City Council to explore funding strategies to address the many transportation needs of the City that are not getting funded by relatively flat gas tax revenues and general fund revenues. During the first six months of meetings, the Task Force reviewed a variety of funding options and came back to the City Council in February with a recommendation for a gas tax and how this could be implemented. The City Council asked the Task Force to come up with a better strategy and to identify the types of projects. Since February, the idea of a grant came up with regard to the 99W study. Now, the Task Force has decided to wait until the study is done.

Task Force Chair Buehner noted that in the last 60 days, some additional items have come up. At the City Council's June 21 meeting with Washington County regarding the improvements to Hall Boulevard, the County indicated that they were not interested in funding a right-turn lane on the southbound portion of Hall as it turns west on Hwy. 99. She said there was a comment from Council members and from people in the community that this was something that needed to be looked at. There are also other issues – right of way may need to be purchased in connection with the Downtown Plan. The TFSTF is looking for guidance from City Council as to whether it wants the Task Force to continue work looking at projects that will need to be funded in a shorter timeframe or whether the City Council wants the Task Force to “sit back and go on leave” until the Highway 99W Corridor Management Study is completed.

- b. Council Discussion

Councilor Wilson noted that he attended some of the Task Force meetings. He referred to the findings of the proposed gas tax. Task Force Chair Buehner said that theoretically a 2- to 3-cent/gallon tax would raise \$800,000 to \$1,000,000 in revenue a year. She the Task Force was suggesting that this would be set up in an MSTIP-plan model, which would be for five years with an automatic sunset clause unless it was reactivated. The plan would be based upon a specific list of projects. The Council had asked the Task Force to come up with a list of projects with a focus on 99W. Task Force Chair Buehner said the issue was that with the limited funding, the gas tax would not represent a huge amount of money, but it might provide opportunities to do one or two projects a year (or every other year) that would not otherwise be funded. She said the Task Force had planned to implement a public involvement program to inform the public about the proposal and to get input on projects. The Task Force did not

want to go ahead until they got a response from the City Council as to whether it wanted the Task Force to proceed.

Councilor Wilson noted that the City Council charged the Task Force with looking for funding sources. One idea was for a local gas tax. The Task Force studied this idea and looked into other cities that have implemented a gas tax to determine what the objections were. There was discussion about asking gas station owners about this plan; although, it is likely they would object to it. Councilor Wilson said that the decision was made that rather than "to raise a lot of hackles among people," since it is just an idea at this point, the Council decided to stay low key until it could be determined what some objections were in other cities where it had been tried. Councilor Wilson said the Task Force has wrapped up its work in doing this research – so now, it's an idea that is on the table. He said that he felt that given that almost all of the gas stations in Tigard are on Highway 99, that it would make sense to focus the improvements on Highway 99 where the money is generated. The advantage is that people who do not live in Tigard and use 99 would also help pay for its improvements. Councilor Wilson suggested it might be time to thank the Task Force for its work and give them a short vacation until the Highway 99 Study is started. At some point, when projects have been identified, then the Council might reconsider the gas tax idea.

In response to a question from Mayor Dirksen about what the Task Force's feeling was with regard to going on hiatus, Task Force Chair Buehner advised that the general consensus was to go on hiatus until the Hall Boulevard project came up. The Task Force wanted to come to City Council to get its opinion on whether this is something that needs to be addressed within a short timeframe.

Councilor Sherwood noted she likes to tie revenue to projects. She suggested putting things on hold until projects are identified on Highway 99.

Councilor Woodruff noted his appreciation of the Task Force members. He noted the needs and the universal issue of where to find funding. He said it is a conundrum to find out what is a fair way to try to raise additional revenue that will create the least amount of controversy and conflict. Councilor Woodruff said he appreciated the Task Force's exploration of this issue. He said he hoped Task Force members would continue to look at other cities to find possible means to generate additional revenue. He said he thought it makes sense to wait to find out what happens with the Corridor Study, if the desire is to connect funding with specific projects.



Task Force Chair Buehner said the gas tax was really the only effective way to have those who use the road, but do not live in Tigard, help pick up a piece of the cost of the road.

Mayor Dirksen said he appreciated the work of the Task Force. He said he was not inclined to have the Task Force meet only for the sake of meeting. He said he would rather give the Task Force some time off, but would want the members to come back when there are other tasks to be done.

Councilor Harding agreed that revenues should be tied to certain projects. She invited others to share any ideas they might have.

8. CONSIDER AN ORDINANCE TO AMEND THE TIGARD MUNICIPAL CODE AUTHORIZING USE OF COMMUNITY SERVICE OFFICERS BY ADDING NEW PROVISIONS TO CHAPTERS 1.16.030 AND 10.32.030

- a. Chief of Police Dickinson presented the staff report. Under TMC 1.16.030 there is specific reference to Code Enforcement Officer, but nothing for Community Service Officer. The proposed change would not alter the job description of the Community Service Officer (CSO). A CSO is a non-sworn officer of the police department; these staff members perform enforcement activities and tasks that free up police officers to perform duties requiring a higher level of law enforcement training.

b. Council Consideration:

Motion by Councilor Woodruff, seconded by Councilor Harding, to adopt Ordinance No. 05-08.

ORDINANCE NO. 05-08 – AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE (TMC) TO SPECIFICALLY AUTHORIZE THE USE OF COMMUNITY SERVICE OFFICERS BY ADDING NEW PROVISIONS TO TMC SECTIONS 1.16.030 AND 10.32.030

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Harding:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff	Yes

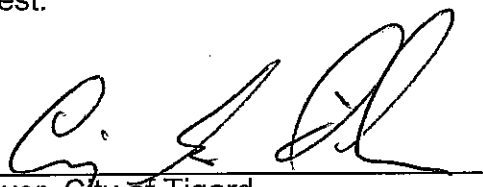
9. COUNCIL LIAISON REPORTS: None
10. NON AGENDA ITEMS: None
11. EXECUTIVE SESSION: Not held.
12. ADJOURNMENT: Motion by Councilor Wilson, seconded by Councilor Harding, to adjourn the meeting at 9:59 p.m.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:	Yes
Councilor Harding:	Yes
Councilor Sherwood:	Yes
Councilor Wilson:	Yes
Councilor Woodruff	Yes

  
Catherine Wheatley, City Recorder

Attest:

  
Mayor, City of Tigard

Date: August 23, 2005

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